

**IN THE UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF ARKANSAS
WESTERN DIVISION**

UNITED STATES OF AMERICA

PLAINTIFF

v.

NO. 4:08CR00224 JLH

DOUGLAS RONALD SCHUH

DEFENDANT

ORDER

Counsel for Douglas Ronald Schuh has filed a motion for a forensic psychiatric evaluation. As the motion states, Schuh was referred for a mental health evaluation in 2008. On August 5, 2008, a report was issued in which a forensic psychologist found that Schuh was competent to proceed to trial. He had a primary diagnosis of alcohol abuse with an adjustment disorder, but otherwise no psychosis was found. Although Schuh has reported a history of bipolar disorder, the psychological examiner found no evidence of that disorder. The report indicates that Schuh understands the charges against him and is able to assist his lawyer.

Because Schuh was evaluated in 2008 and no psychosis was found, the Court ordered a hearing to hear further evidence on the issue of whether Schuh should be referred to the Bureau of Prisons for another evaluation.

Floyd Hancock, the chief investigator for the Federal Public Defender for the Eastern and Western Districts of Arkansas, testified that when he and defense counsel went together to see Schuh in September, Schuh refused to talk to them, became angry, and pounded on the walls. Hancock also testified that the jail personnel stated that Schuh will not come out of his cell except when accompanied by a jailer to go to the shower, sits on the floor in the corner next to the door in his underwear and stares straight ahead, and refuses to speak except to say "yes" or "water" when asked

whether he wants tea or water. More recently, Hancock visited Schuh alone and Schuh stated that he believes that he is in need of treatment.

During the course of the hearing, the Court asked Schuh whether he was willing and able to assist his lawyer in defending the case. He stated that he was willing and able but that he did not have confidence in his lawyer. He stated that there were psychiatric records from 1995 that should have been introduced at the hearing.¹ Schuh explained that he does not call his lawyer because when he gets on the telephone the other inmates shout obscenities and vile things at him, so the noise and the emotional disturbance prevent him from communicating adequately on the telephone.

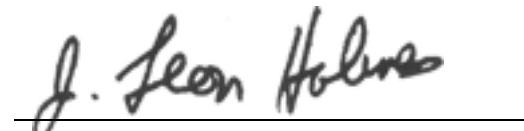
After reviewing the psychological examination dated August 5, 2008, and considering all of the evidence at the hearing conducted on October 20, 2009, including the Court's own observations of Schuh, the Court does not believe another mental health evaluation is needed. Schuh was found to be competent and without psychosis in August 2008. He appeared competent at the hearing on October 20, 2009. The motion for a psychiatric examination is DENIED. Document #30.

Although the Court disagrees with Schuh that he has not been adequately represented, the Court also believes that the relationship of trust and confidence between Schuh and his attorney has been broken to such an extent that it would be appropriate to relieve his current counsel of the duty of representing him and appointing a new attorney. Therefore, the Federal Public Defenders Office will be relieved from this case. The Court appoints Jeffrey M. Rosenzweig as counsel to represent Schuh.

¹ The Court notes that those psychiatric records were provided by defense counsel to the Bureau of Prisons and were mentioned in the report of August 5, 2008.

Having determined that Schuh is able to assist his lawyer in his defense, and having granted Schuh his request for the appointment of a new lawyer, the Court warns Schuh that he must cooperate with Mr. Rosenzweig and that any failure on his part to cooperate with Mr. Rosenzweig will not result in the appointment of new counsel.

IT IS SO ORDERED this 20th day of October, 2009.



J. LEON HOLMES
UNITED STATES DISTRICT JUDGE